



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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February 25, 2004

The Honorable Joseph Zarelli, Chair  
Senate Ways and Means Committee  
316 John A. Cherberg Building  
Olympia, WA 98504-0418

Dear Sen. Zarelli:

I want to take this opportunity to respond to concerns on Ecology's PBT budget request that you voiced in the Senate Ways and Means Committee on Tuesday, February 24<sup>th</sup>.

I want to assure you that we have listened to, and thoughtfully considered, concerns regarding the Department's authority to address PBT's, and the Legislature's role in those efforts. Our current budget request, along with recent agreements reached with agricultural stakeholders, reflects our attempt to address those concerns in what is a significantly revamped program. I hope you will consider our request in light of these changes.

First, regarding authority, I am enclosing specific references to existing statutes authorizing this work. An important point is that we are not seeking new authority, nor do we intend to reach beyond existing authorities. For example, there has been much disagreement over whether the Department has explicit authority to regulate pesticides approved by the federal government. To resolve this disagreement, we have agreed with stakeholders to proviso language in the House budget which excludes these chemicals from consideration under the PBT Program.

Another important change is reflected in our request for funding for rulemaking. We heard clearly from the business community that any list of PBT's should be defined through rule. In response, we propose that the current draft list of PBT's in Washington state be replaced by a list generated through rule, with stakeholders at the table through the rulemaking process. The rule would define the criteria for what is and is not a PBT; it would set the list of PBT's itself in rule; and it would define the criteria to be met for a chemical to warrant a chemical action plan. We believe this addresses the concerns in the business community that they had no voice in the drafting of the PBT list, nor the means by which chemical action plans are selected.

Finally, our new approach is reflected in the structure of our budget request. We are asking the Legislature not for funding of a "PBT program," but rather for specific action items. Our request includes the following items:



- Implementing the Mercury Chemical Action Plan (MCAP);
- Monitoring fish in Washington lakes for mercury;
- Funding for rulemaking;
- Funding for developing a chemical action plan for PBDE's (toxic flame retardants), as directed by the Governor.

The Legislature funded the Department last biennium to develop the MCAP. Now we are recommending actions to the Legislature, and asking for funding to implement them. We very much appreciate the inclusion in the Senate budget of \$159,000 to implement the MCAP. Our intent is to mirror this process in the future. We would develop recommendations, deliver those to the Legislature, and request implementation funding as needed. This would ensure ongoing involvement by the Legislature in the scope of the Department's work on these chemicals. I also hope that you will see, through the example of the MCAP, that we are interested in collaborative, voluntary efforts to reduce exposure to PBT's as our preferred approach.

Senator Zarelli, I know that this program has been the subject of much disagreement. But taking a reasonable, preventive approach to these very dangerous toxins is a worthwhile task for all of us, and there should be common ground on this important public health and environmental issue. We have made every effort to improve our approach and change the discussion, so we can all find that common ground. I hope you will consider funding this request, so we can move forward together in a collaborative fashion.

Sincerely,



Linda Hoffman  
Director

Enclosure

cc: Senate Ways & Means Committee Members